

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FINGERMOTION, INC.,

*Plaintiff,*

v.

CAPYBARA RESEARCH, JOHN DOES 1-10,

*Defendants.*

CIVIL ACTION NO. 1:23-cv-09212-JPC

**[PROPOSED] DEFAULT JUDGMENT**

This matter comes before the Court by motion filed by Plaintiff FingerMotion, Inc. (“Plaintiff”) for the entry of final judgment and permanent injunction by default against Defaulting Defendant Capybara Research (“Defaulting Defendant”). This Court, having considered Plaintiff’s Motion for Default Judgment, the Declaration of Martin J. Shen in Support of Plaintiff’s Motion for Default Judgment, executed December 22, 2023, the Declaration of Merk R. Basile, Esq. in Support of Plaintiff’s Motion for Default Judgment executed December 26, 2023, Plaintiff’s Complaint, Plaintiff’s Motion for Permission to Serve Defendants via Electronic Mail, this Court’s Order entered November 6, 2023, a Certificate of Service executed on November 6, 2023, and a Certificate of Default of the Clerk of the Court stating that no answer has been filed by Defaulting Defendant in the instant action, and upon all other pleadings and papers on file in this action, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

**I. Defaulting Defendant's Liability**

On October 19, 2023, Plaintiff FingerMotion, Inc. commenced this action against Defendant Capybara Research with the filing of Plaintiff's Complaint (ECF 1). On October 31, 2023, Plaintiff FingerMotion, Inc. filed an *ex parte* motion to serve the Complaint and a proposed summons upon Defaulting Defendant Capybara Research via email to the email address capybararesearch@proton.me (ECF 7).

On November 6, 2023, this Court issued an Order (ECF 10) authorizing Plaintiff to serve Defaulting Defendant its summons, Complaint and this Court's Order via email to the email address capybararesearch@proton.me. A certificate of service showing timely service upon Defaulting Defendant was filed on the docket (ECF 11).

On December 14, 2023, Ruby J. Krajik, the Clerk of the Court for the Southern District of New York, issued a Certificate of Default against Defendant Capybara Research (ECF 27). No claims or answers have been filed or made in this action by Defaulting Defendant, and the requisite time period to file an answer expired on November 27, 2023. As such, it is hereby

**ORDERED, ADJUDGED AND DECREED** that pursuant to Fed. R. Civ. P. 55(b)(2), judgment is hereby granted in favor of Plaintiff on all claims properly pled against Defendant Capybara Research in the Complaint.

## **II. Equitable Relief Awarded**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court has found that Plaintiff has sufficiently pled its claims and sufficiently set forth the basis for which injunctive relief should be awarded in its Complaint and Motion for Default Judgment. Defaulting Defendant, and all persons acting in concert with, under the direction of, or individually in support of Defaulting Defendant (regardless of whether located in the United States or abroad), and any media outlet that publishes or republishes the article titled *FingerMotion: A Serial Case of Stock Promotion That Will End In Shareholder Dilution. \$1 Target* (the “Capybara Report”), who receives actual notice of this Order are hereby:

- a. Directed to publicly retract in writing and/or remove any reference to the Capybara Report, from its website and/or social media accounts;
- b. Directed to remove any and all references to and/or statements about Plaintiff from its website and/or social media accounts; and
- c. Permanently enjoined and restrained from authoring and/or publishing additional articles or making public statements about Plaintiff or its business on any website and/or social media account, except for a public written retraction of the Capybara Report.

**III. Miscellaneous Relief**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that any failure to comply with the terms of this Order by Defaulting Defendant, or by any persons acting in concert with, under the direction of, or individually in support of Defaulting Defendant, or any media outlet that publishes or republishes the Cappybara Report, who receives actual notice of this Order, shall be deemed contempt of Court and subject to contempt remedies to be determined by the Court. The Court shall retain jurisdiction over this matter and the parties in order to construe and enforce this Order.

**SO ORDERED.**

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Hon. John P. Cronan  
United States District Judge